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DO NOT NEGLECT YOUR EYES; you  
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man's glasses; your eyes differ from  
others. Don't wear cheap, improperly  
made glasses; they will ruin your eyes.  
United States vs. BURKE, 99 Fed. Rep.,  
396, that—

BROKERS.  
J. CAMPBELL—Office Queen St., op-  
posite Union Feed Co.

KENTWELL—Loans negotiated.  
Chinese business transacted; Bethel St.

AGENTS.  
MILFORD—Agent to take acknowledg-  
ments to instruments, district of Kona,  
Hawaii.

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NEW PRESIDENT OF SOUTHERN PA-  
CIFIC.

NEW YORK, Nov. 2.—The directors of  
the Southern Pacific not here today and  
Charles M. Hays president of the road  
were absent. No other business was trans-

# WAS A DEMOCRATIC "ROORBACK" ONLY

## Decision of Judge Estee Distorted For Political Purposes.

### ORIENTALS FROM THIS TERRITORY CANNOT LAND IN THE UNITED STATES

#### Federal Jurist Held Merely That Chinese Sailors on American Ships From American Ports Could Come Ashore Here.

ONE OF THE MOST ABSURD of the campaign roorbacks which the Democrats of the Mainland have been making use of during the closing days of the campaign was a threatened invasion of Japanese and Chinese, and they based this bugaboo largely on a decision made by Judge Estee, by the terms of which they claimed that all Japanese and Chinese of Hawaii would be admitted free to the United States.

The decision in question was made in the case of Ah Sing, a Chinese sailor who asked for permission to land here. As a matter of fact the decision contains no ruling whatever that could be tortured into an expression of opinion that Orientals in Hawaii had a right to land.

Judge Estee ruled that Ah Sing, who had been a sailor on American vessels out of the port of New York for many years, was not an immigrant and could not be considered as such and restrained from landing.

For the better enlightenment of those interested in the matter the opinion is here given in full:

In the United States District Court in and for the Territory of Hawaii.  
In re Application of Ah Sing for a Writ of Habeas Corpus.

John C. Baird, U. S. District Attorney, for Edward P. Stackable, Collector of Customs for the Port of Honolulu.

This is an application for a writ of habeas corpus made on behalf of one Ah Sing, a Chinaman, claiming to be a seafaring man (a cook) on board the American ship Challenger, which sailed from the port of New York, in the United States, on the 14th day of April, 1900, and arrived at Honolulu on September 1st, 1900; the said petitioner claiming to be unlawfully detained and imprisoned by the Collector of Customs at the port of Honolulu, he having been refused landing at said port by the Collector of Customs on the ground that petitioner is an alien and a native of China, and not entitled to land under the Chinese exclusion acts.

Upon the hearing it was shown that the American ship Challenger sailed from the port of New York on the 14th day of April, 1900, for the port of Honolulu, Hawaiian Islands, and (as shown in the articles of shipping) to "such other ports and places in any part of the world as the master may direct and back to a final port of discharge in the United States."

That Ah Sing, the petitioner, was regularly shipped as cook on board the said ship Challenger at the said port of New York, signing the shipping articles in Chinese, the shipping commissioner placing opposite his Chinese signature the words "Ah Sing" in English; that the petitioner, having been refused landing at said port by the Collector of Customs, did not read English and did not know that the commissioner had written his name Ah Low instead of Ah Sing, as appears from the testimony of the master of the ship and the petitioner.

Upon the arrival of the ship at the port of Honolulu the master of the vessel discharged the cargo and undertook to pay the petitioner and discharge him at the port of Honolulu, in accordance with the shipping articles; but the Collector of Customs refused to allow petitioner to land.

It was shown by the evidence at the hearing that the petitioner had been a seafaring man on American ships sailing out of the port of New York for twenty years. He produced in evidence eight certificates of discharge from different American vessels on which he had sailed. The master of the ship Challenger testified that the petitioner was a sailor; that the petitioner had consigned with him, the master, about returning to New York, and that he believed the intention of the petitioner was to immediately reship upon another vessel as cook or steward to return to that port, and that it was not the intention of the petitioner to remain at the port of Honolulu.

The single question is, DO THE CHINESE EXCLUSION ACTS APPLY TO THIS PETITIONER?

It was held in the recent case of the United States vs. Burke, 99 Fed. Rep., 396, that—

"The legislation contained in the various statutes that have been passed relating to immigration is clearly directed against the IMMIGRATION INTO THIS COUNTRY OF CERTAIN CLASSES OF PERSONS WHO COME HERE WITH THE INTENT TO ENTER INTO AND BECOME A PART OF THE MASS OF ITS POPULATION."

American port, where he was to be discharged.

It was held in the case of In re Jack Sen et al., by Judge Sawyer of the Ninth Circuit, that—

"A Chinese laborer who ships on an American vessel, at an American port, for a round voyage, and who does not land at any foreign port, but remains on board until the voyage is completed, DOES NOT DEPART FROM THE UNITED STATES WITHIN THE MEANING OF THE EXCLUSION ACT OF October 3, 1888" (43 Fed. Rep., 291).

So it was also held in the recent case of In re Jam, Vol. 101, Fed. Rep., page 365, that—

"The treaty of 1894 with the Empire of China, and acts of Congress of 1888, 1894, excluding 'Chinese laborers' from coming into the United States, are not applicable to a Chinese seaman who ships as steward aboard a vessel bound for a port in the United States, and who lands with the intention and desire to reship as soon as possible."

So also in the very recent case of In re Low Young et al., decided in the United States Circuit Court for Washington and not yet reported, where Judge Hand held that—

"As seafaring men, the petitioners are not 'Chinese laborers' under the meaning of the Exclusion Acts and they are entitled to their liberty."

In a word, the question presented in this case is no whether this Chinaman is now seeking to illegally enter into the United States at this port as an immigrant, FOR HE IS ADMITTED NOT TO BE AN IMMIGRANT, as defined by the Exclusion acts, but rather whether he, as a Chinese seaman, already domiciled in the United States, can legally follow the sea for a livelihood.

The court is of the opinion that an American ship to an American port and in such port leaves the ship with the intent to re-ship for the port of departure. I think he can do this and not violate the terms of the Exclusion Acts.

This Chinaman is not an immigrant under the law, nor is there any provision of the Organic Act for the Government of the Territory of Hawaii, approved April 30, 1900, authorizing the Collector of Customs to prohibit persons in a like position with this petitioner from landing from an American ship, coming here in the usual course of commerce on the sea from an American port to an American port of Honolulu, which is also an American port, and especially when they do not come as passengers but as sailors, employed by the ship, as was this petitioner in the usual and customary manner and for the sole purpose of making the usual customary voyage.

The court is of the opinion that the Chinese Exclusion Acts do not apply IN THIS CASE and that the petitioner is entitled to land.

Let him be discharged from custody.

ESTEE, Judge.

As evidence of the wide currency which has been given the tale and how it was considered in the Eastern States, the following Washington dispatch concerning the matter will be of interest:

THREATENED INVASION OF ASIATICS AN ABSURDITY.

Matter or Exclusion Not at All Affected by the Decision of Judge Estee.

WASHINGTON, Oct. 2.—It is good news to the Republican campaign man-

agers here in the East that the fusionist managers on the Pacific Coast are attempting to frighten the voter with the bogey of threatened Asiatic immigration, for it shows that the Bryanite cause in that part of the country is on its last legs, and they are confident that so ridiculous a claim cannot be taken seriously by anybody.

In obtaining the views of several leading officials here today on this subject it has been found that it is difficult for them to believe that the fusionist managers on the Coast could make so great a fuss for campaign purposes on so flimsy a basis as the recent decision of Judge Estee, of the Hawaiian Supreme Court. The inevitable conclusion which they have reached upon being convinced that this is really the case is that Mr. Bryan's cause on the Coast must be so hopeless that its advocates are catching at straws before going down in the inevitable defeat.

Secretary Gage, under whose direction, as head of the treasury department, the immigration laws are administered, said tonight:

"The fusionists on the Pacific Coast have set up a man of straw. Why, this idea that the Pacific Coast is threatened with inroads of Oriental immigration is a bugaboo. It is too absurd to discuss to suppose for a moment that the decision of a Territorial Judge in Hawaii on a question not even remotely related to immigration into the United States by any of the Hawaiian Islands is worth consideration in this connection. The Democratic campaign has been remarkable for its appeals to ignorance and class prejudice, but this effort which you call my attention to seems to exceed anything in this line that has been attempted."

NOT TAKEN SERIOUSLY.

Officials of the Department of Justice were not disposed to treat the matter with any seriousness whatever. They admitted that it was well to have the question fully examined, for great harm is sometimes done in the closing hours of a campaign by a partial statement of the truth by political managers on the suppression of important and closely related facts. So much for the political aspect of the case. As to the legal question, they declared, it was absurd to suppose that there was any question at all.

A high official of the department, who did not care to be quoted in a political discussion of this character, said: "It is a fact well established by high court decision that Congress is supreme in its power to govern the Territories. In the recent Act organizing the Territorial government of Hawaii it was expressly provided that no Chinese laborers shall be allowed to enter the United States from the islands."

"Even if the Supreme Court of Hawaii should make a decision expressly dispositive of this power, instead of on a subject not even remotely related to the matter, it would not affect the case at all. The Supreme Court of the United States long ago covered the general case completely and conclusively in a decision relating to Louisiana and Florida. I dare say those decisions will never be reversed. As for the present concrete question of an influx of Asiatic cheap labor on the Pacific Coast, it might as well be said now, as positively as anything can be said, that nothing of the kind will ever come to pass or can come to pass as long as public sentiment is such as it is and the laws remain unchanged."

Judge Estee stated yesterday that he had nothing to say on the subject. "The opinion speaks for itself, and you can see what was decided in it by reading it. I did not hold at all that Chinese and Japanese had the right to go from Hawaii to and from the States. That is all that it is necessary to say."

HEMENWAY NEW  
SANITARY OFFICER

Takes Executive Officer Pratt's  
Former Position With  
Health Board.

C. K. Hemenway has been appointed by the Board of Health City Sanitary Officer to succeed Dr. Pratt who has been made Executive Officer of the Board. Hemenway has been assistant to Dr. Pratt and was formerly a teacher at Oahu College.

The Board of Health met yesterday to elect a president to succeed Dr. Wood who resigned some days ago. The meeting was called hastily and secretly but it leaked out that no president was elected.

Just why the Board failed to take action is a mystery as is very much that goes on behind its closed doors.

Inspector Mitchell was on duty on the Naval wharf, Jason Chiu, a Chinese employed aboard the Solace, came to the gateway onto the wharf. Mitchell approached him immediately, and delivering himself gently but firmly, reminded the Chinese that he had no right ashore and that he should return to the ship. This the Chinese refused to do and he continued walking, going in the direction of the fish market and asserting his intention that he was going up town. Mitchell then reminded him that in the event of his persisting in going up town it would be his, Mitchell's, painful duty to place him under arrest. Mitchell advised him to return to the ship, giving him ample opportunity to do so, and even walking along with him while so advising him. The Chinese refused to consider the proposition of returning to the Solace, however, and Inspector Mitchell forthwith placed him under arrest and took him to the Custom house, where he reported the matter to Inspector Miller, who was in charge of the office. Miller took the man in charge and Mitchell returned to his post on the Naval wharf. Miller then took Jason Chiu to the police station, where he was held at the request of the United States Marshal.

Inspector Chiu wears no pistol and when Inspector Mitchell took him to the Custom house last night and turned him over to Inspector Miller, Miller asked him if he was a Chinese; he answered that he was.

Collector Stackable, when seen last night by an Advertiser reporter, said that he had been treated rudely by Commander Winslow of the Solace, who claimed the right to defy the law and who said that he "had defied the law in San Francisco."

Commander Winslow called upon United States Attorney Baird yesterday to get his opinion in the matter. Mr. Baird told Commander Winslow that the best thing that he could do was to make his peace with the Customs department, obey the law and so avoid all further trouble.

Jason Chiu, the Chinese arrested, told Collector Stackable last night that he was an American citizen; that he was born in San Francisco, and that his father was a Chinese while his mother was a Japanese.

Jason Chiu speaks pretty good English and, as mentioned above, wears no pistol. Rumor has it that Commander Winslow, failed in his attempt to give his Chinese employes a recreation ashore, sent this

# SOLACE CHINESE NOW IN PRISON

## Arrested By the Custom House Force.

### CLIMAX OF CAPT. WINSLOW'S ROW

#### Collector Stackable Refused To Let Mongolian Crew Land.

JUDGE ESTEE will be confronted with an interesting problem in the United States District Court this morning. It is almost certain that a writ of habeas corpus will be asked for the liberation of Jason Chiu, a Chinese employed aboard the U. S. N. transport Solace, who insisted upon coming ashore from the vessel last night in direct opposition to the orders of Collector of Customs Stackable, and who is now in the City Jail, where he is being kept at the request of the United States Marshal.

The question as to whether or not Chinese employed aboard American Government vessels can land in American ports is one that is causing considerable stir both here and on the Mainland.

Ever since the Solace has been in this port the relations between the Customs house officials and the officers of the Navy transport have been anything but pleasant, and all on account of the Chinese employed aboard the vessel.

Commander Winslow of the Solace insists that the Chinese have a perfect right to come ashore here and Collector Stackable is just as firm in his opinion that he is doing his duty by allowing none of the Celestials to land.

When the Solace arrived in this port the same orders were issued to the Customs inspectors concerning her that are issued in connection with any other transport which enters this harbor, namely, that under no circumstances were Chinese from the transport to be allowed to land, unless a special pass was issued in a particular case. The Customs inspectors, as usual, carried out their orders. The inspectors were treated with the greatest incivility by those in authority on the Solace and were interfered with while in the discharge of their duty by orders issued by the commander of the Solace. They have been ordered off the gateway several times, sworn at and even ordered out of the way of a marching sentry of the Naval wharf, where there is room enough for a whole regiment to parade. The Customs men, who always make it a rule to be just as polite as is possible, took everything in good part and endeavored to do their duty with as little friction as possible. It is customary for the inspectors, going in the direction of the gateway, to be met by a detachment of the crew of transports in port at least once a day in order to ascertain whether all of them are on board. This right the commander of the Solace denied to the inspectors, entirely ignoring the authority of the Customs department.

The Customs men were at least going to be sure, however, that no Chinese landed from the Solace and they kept their eyes pretty wide open to see that no cooie slipped by them.

Last night at 8:30 o'clock while Inspector Mitchell was on duty on the Naval wharf, Jason Chiu, a Chinese employed aboard the Solace, came to the gateway onto the wharf. Mitchell approached him immediately, and delivering himself gently but firmly, reminded the Chinese that he had no right ashore and that he should return to the ship. This the Chinese refused to do and he continued walking, going in the direction of the fish market and asserting his intention that he was going up town. Mitchell then reminded him that in the event of his persisting in going up town it would be his, Mitchell's, painful duty to place him under arrest. Mitchell advised him to return to the ship, giving him ample opportunity to do so, and even walking along with him while so advising him. The Chinese refused to consider the proposition of returning to the Solace, however, and Inspector Mitchell forthwith placed him under arrest and took him to the Custom house, where he reported the matter to Inspector Miller, who was in charge of the office. Miller took the man in charge and Mitchell returned to his post on the Naval wharf. Miller then took Jason Chiu to the police station, where he was held at the request of the United States Marshal.

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Jason Chiu, the Chinese arrested, told Collector Stackable last night that he was an American citizen; that he was born in San Francisco, and that his father was a Chinese while his mother was a Japanese.

Jason Chiu speaks pretty good English and, as mentioned above, wears no pistol. Rumor has it that Commander Winslow, failed in his attempt to give his Chinese employes a recreation ashore, sent this

Jason Chiu ashore last evening as an experiment, and that Jason is in reality an American citizen.

The following is a copy of a letter sent Collector Stackable Saturday by United States District Attorney Baird:

Department of Justice, Office of United States Attorney, District of Hawaii, Honolulu, November 12, 1900.

Sir: I have the honor to acknowledge receipt of yours of this date, asking as to the best course to pursue to prevent the landing of Chinese employes of the U. S. S. Solace, and possibly remaining in the Territory. It would be the simplest method, perhaps, to station guards at the wharf to warn such Chinese persons from landing, and, if they persist in doing so, to arrest them. In that event they may be kept temporarily in the police station in Honolulu. In such event please report the facts promptly to this office and the office of the United States Marshal.

I agree with you that you have the undoubted right to board any vessel that enters a port in Hawaii, and especially a vessel of the United States, to enforce the laws of the Nation.

Yours respectfully,  
JOHN C. BAIRD,  
United States Attorney for Hawaii.

P. S.—With reference to the method suggested by you of checking up twice a day the Chinese persons referred to, I agree with you that this furnishes the only safe check against desertion and landing on the part of such people.

The following is the opinion of a Treasury official on which Collector Stackable bases his action:

Department of Justice, Office of the Solicitor of the Treasury, Washington, D. C., June 20, 1900.

The Secretary of the Treasury.  
Sir: The Hon. T. V. Powderly, Commissioner General of Immigration, has referred for my consideration a letter, dated the 2d instant, from Joshua K. Brown, Chinese Inspector at Honolulu, H. I., relative to the admission of Chinese going from the United States to that Territory. The Inspector states his case in this way: "The positive provisions of section 301 of the Act of April 30, 1900, that no Chinese laborer shall be allowed to enter any State or Territory or District of the United States from the Hawaiian Islands," suggests an inquiry of the Department for instructions relative to the admission of Chinese to the Territory of Hawaii."

Section 301 of the Act providing a Government for the Territory of Hawaii, should, I think, be construed in connection with the joint resolution approved July 7, 1898, which reads as follows: "There shall be no further immigration of Chinese into the Hawaiian Islands, except upon such conditions as are now or may hereafter be allowed by the United States, and no Chinese, by reason of anything herein contained, shall be allowed to enter the United States from the Hawaiian Islands."

No express provision is made by the Act of April 30, 1900, for the immigration of Chinese to Hawaii from the United States.

If it had been the intention of Congress to extend this privilege, doubtless regulations would have been authorized, or prescribed, so as to prevent its fraudulent abuse. While a Chinaman, who is a citizen of the United States by reason of his birth, would have the right to visit, or migrate to the Territory of Hawaii in common with other citizens of this country, an immigrant Chinaman residing here would not have the right in the absence of express authority by Congress.

I am, therefore, of the opinion that Chinese immigrants cannot be admitted in the Territory of Hawaii although going from the United States. See 22 Op. A. C., p. 333; and Rev. R. 10, the Solicitor of the Treasury of May 1st, 1899, as to the proper construction of the said resolution.

The letter submitted is herewith returned.

Very respectfully,  
F. A. REEVE,  
Acting Solicitor.

AN INSOLENT DRIVER.

One of Pain's Employees Rebuked for Incivility Yesterday.

A driver of car 27 of Pain's slow transit line, was extremely rude yesterday to the passengers on his car which left down town about 4:30 o'clock yesterday afternoon. The car was opposite the pumping station on Beretania street when a young woman rang the bell to alight. The young man paid no attention to her signals. Wray Taylor, who was on the back platform, set the brake and brought the car to a standstill so that the young woman was enabled to step off. The driver was angry and shouted wildly at Mr. Taylor. Mr. Taylor and a number of passengers on the car remarked that this same driver of car 27 had acted in the same way a number of times before. Like many of the Pain employees he runs his car without attention to the comfort or convenience of passengers. It is said he has been reported a number of times for incivility.

NEW COURT OFFICIALS.

A. G. Kaulukou, a Clerk, and Paul Jarrett, Jr., Messenger.

Abram G. Kaulukou will be appointed Fourth Deputy Clerk of the First Circuit Court in a few days. He will succeed Fred D. Smith, who resigned several weeks ago. Mr. Kaulukou is a son of Judge Kaulukou, a graduate of Oahu College, and a young man of courtesy, tact and ability.

Paul Jarrett Jr. has taken the place of Levi Joseph as messenger to the Judiciary Department. Joseph has taken employment with the attorney general. Jarrett is a well known athlete and Heald's Boat Club man.

Paying Teller: "Excuse me, madam, but I don't know you."  
Lady with Check: "Know me? Well, I should think not. There are no bank cashiers in our set."—Chicago News.